

04



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,443	08/31/2001	Seppo Pyhalammi	4208-4022	1836
27123	7590	03/10/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			FERGUSON, KEITH	
			ART UNIT	PAPER NUMBER
			2683	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,443

Applicant(s)

PYHALAMMI ET AL.

Examiner

Keith T. Ferguson

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 1-12, 19, 24, 26, 33, 43, 44 and 50-55 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-18 is/are allowed.
- 6) ☒ Claim(s) 20-23, 25, 27-32, 34-42 and 45-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2683

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 13-18, 20-23, 25, 27-32, 34-42, 45-49 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 19, 23, 25, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang et al. in view of Janik, newly recited reference.

Regarding claims 19, 23, 25, 27, 28-32, Hwang et al. discloses a mobile content delivery wireless network (fig. 2) (paragraph 0038) comprising of a wireless terminal device (fig. 2 number 226), a content/service provider (fig. 2 number 202), a delivery server (fig. 2 number 214), a mobile content delivery system (MCD) (fig. 2 number 204), and a messaging transport system (fig. 2 number 222); wherein the said wireless terminal device interacts with said elements (paragraphs 0038 through paragraph 0042); said MCD system interacts with said elements (paragraphs 0038 through paragraph 0042); said delivery system interacts with said MCI system (paragraphs 0038 through paragraph 0042); said

Art Unit: 2683

content/service provider interacts with said MCD system (paragraphs 0038 through paragraph 0042); and said content/service provider interacts with said messaging transport system (paragraphs 0038 through paragraph 0042). Hwang et al. differs from claim 28 of the present invention in that it does not disclose content download and the MCD system performs the download on behalf of the user, to the network. Janik teaches a system for providing content which downloads movies or videos to a client device (paragraph 0186). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hwang et al. with content download and the MCD system performs the download on behalf of the user, to the network in order for the mobile content delivery wireless network to download internet services via the wireless transceiver for viewing web services, as taught by Janik.

Regarding claim 20, Hwang et al. discloses a Short Message System that delivers a wake-up message to said wireless terminal device (i.e. SMS push mode) (paragraph 0053).

Regarding claim 21, Hwang et al. discloses receiving a content delivery message from said content/service provider (paragraphs 0038 through paragraph 0039).

Regarding claim 22, Hwang et al. discloses wherein said MCD system schedules delivery of a content delivery message via said messaging transport system (paragraph 0122).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Art Unit: 2683

5. Claims 34-42 and 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang et al. in view of Demello et al. and Cheng et al., newly recited reference.

Regarding claims 34,37-40,45-49, Hwang et al. discloses a wide area network system (fig. 2) comprising: a plurality of wireless terminal devices (fig. 2 numbers 226,228,230 and 232), a cellular network (fig. 2 number 222), a content/service provider (fig. 2 number 202), a messaging transport system (fig. 2 internet), a short message system (SMS) (paragraph 0053), and a mobile content delivery (MCD) system (fig. 2 number 204) together capable of browsing (paragraph 0006), ordering (purchasing) (paragraph 0089), specifying a class (time of deliver) of delivery (paragraph 0122), scheduling (paragraph 0122), and delivering content to said plurality of wireless terminal devices (paragraph 0123). Hwang et al. differs from claim 33 of the present invention in that it does not explicit disclose a multiple base station system configuration, one or more base station controllers and wherein a quality of service (Qos) parameter is attached to a short message in order to adjust speed of the delivery through the network. Demello et al. teaches a wireless network comprising cell sites and base station controllers (fig. 3 numbers 11 and 15). Cheng et al. teaches a quality of service based broadcast message scheduler to negotiate and schedule transmission times of a broadcast SMS message through multiple base stations to the individual users in the system (abstract and col. 4 lines 30 through col. 6 line 36). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hwang et al. with a multiple base station system configuration, one or more base station controllers and wherein a quality of service (Qos) parameter is attached to a short message in order to adjust the speed of the delivery through the network in order for the network to adjust the multiple base stations timing on when to broadcasting contents to the wireless transceiver when the wireless transceiver is seeking internet information, as taught by Demello et al. and Cheng et al..

Regarding claim 35, Hwang et al. discloses the wireless terminal device sends addressing information (paragraphs 0059 through paragraph 0064).

Art Unit: 2683

Regarding claim 36, Hwang et al. discloses the content/service provider system queries the user addressing information such mobile phone number (MSISDN) (paragraphs 0059 through paragraph 0064)

Regarding claim 41, Hwang et al. discloses a Short Message System that delivers a wake-up message to said wireless terminal device (i.e. SMS push mode) (paragraph 0053).

Allowable Subject Matter

6. Claims 13-18 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 13 the prior art of record fails to teach or suggest, alone or in combination a mobile content delivery (MCD) system comprising: provisioning means for maintaining user profiles; charging means for generating corresponding billing information; timing means for measuring absolute time remaining to deliver a content delivery message; queuing means for placing said content in time remaining order; locating means for identifying a wireless terminal device location; on-line and statistical analyzing means for evaluating wireless network activity; traffic analyzing means for intercepting and re-directing traffic; interfacing means for utilizing different transport mechanisms; and delivery scheduling means for scheduling delivery of said content based on an

evaluation of said wireless network activity in an area in which a wireless terminal device is located.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith T. Ferguson whose telephone number is (703) 305-4888. The examiner can normally be reached on 6:30am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703) 308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/944,443

Page 7

Art Unit: 2683

Keith Ferguson

A handwritten signature in black ink, appearing to read "Keith F.", written over the printed name "Keith Ferguson".

Art Unit 2683

March 4, 2005